Pub. Co., 32 App. Div. 465, and its many followers, would include a deliveryman of merchandise in their "all one act" theory. See further 17 MICH. L. REV. 187, 346, and 19 MICH. L. REV. 106, for the phase of the problem last discussed above.

MUNICIPAL CORPORATIONS—RIGHT TO CONDEMN LAND FOR WATERWORKS IN ANOTHER STATE.—The states of Washington and Oregon enacted reciprocal statutes providing that a municipal corporation of any adjoining state might acquire title to land or water rights within the state by purchase or condemnation for waterworks purposes. A city in Washington planned to issue bonds to construct a waterworks system which required the city to condemn lands in Oregon by virtue of the Oregon statute. A taxpayer sought to enjoin the issuance of the bonds on the ground that the city could not exercise the power of eminent domain in another state and so could not lawfully proceed with the project. *Held* (four justices dissenting), that in view of the reciprocal statutes, the city may exercise the power of eminent domain in the other state, and that the injunction should be refused. *Langdon* v. *City of Walla Walla* (Wash., 1920), 193 Pac. 1.

The right of eminent domain, by constitutional provisions which prevail generally in the United States, is restricted to taking property for public use. LEWIS, EMINENT DOMAIN, § 1. The public use for which property may be taken is a public use within the state from which the power is derived. Generally speaking, one state cannot take or authorize the taking of property situated within its limits for the use of another state. NICHOLS, EMINENT DOMAIN, § 29. If the state authorizing the use of the power benefits thereby, it is no objection that another state also benefits. *Gilmer* v. *Lime Point*, 18 Cal. 229. The relative amount of direct benefit accruing inside and outside of the state is not material. Thus, property was taken to be used to prevent the water supply of two cities in the home state and one in a neighboring state from being polluted. *Columbus Water Works Co.* v. *Long*, 121 Ala. 245; and to increase the power of the condemner's electric plant located within the state 4,750 horse-power, and of its plant located outside of the state 13,500 horse-power, *Washington Power Co.* v. *Waters*, 19 Idaho 595; and to construct a pipe-line serving a few people in West Virginia and many people in Pennsylvania, *Carnegie Gas Co.* v. *Swiger*, 72 W. Va. 557. It has been held that unless some direct benefit from the proposed use is to accrue to the state in which it is located, the state's power of eminent domain cannot be used to condemn property. In *Grover Irrigation Co.* v. *Lovella Ditch Co.*, 21 Wyo. 204, the land sought to be condemned was to be used only to facilitate the irrigation of land in another state; the use of the power was refused. But indirect benefit to the state has also been recognized as sufficient to justify the exercise of the power. Thus, the United States was permitted the state's right of eminent domain in Maryland for the purpose of furnishing a water supply to the District of Columbia, the court basing its decision partly on the ground that, as the United States benefited, Maryland as a part of the United States benefited also. *Reddall* v. *Bryan*, 14 Md.

444. And in *In re Thomas,* 39 N. Y. 171, the right of eminent domain was exerted against land in New York to maintain a canal in New Jersey because of the benefit to the people of New York, though the canal was situated entirely in New Jersey; this benefit, a mere possibility, was that the people of New York could use the canal, since it terminated on the Hudson river. On the other hand, in the *Grover Irrigation Co.* case, *supra,* although it was pointed out that certain cities in Wyoming would benefit from the resulting fertility of land in the neighborhood, the court considered this an indirect benefit and refused to allow the exercise of the eminent domain power for such purpose. Thus, it appears that the requirement of benefit may be applied from a strict or a liberal viewpoint. From a strict viewpoint, the dissenting judges in the principal case are correct and the majority are not in accord with the weight of authority, for the reciprocal statute is at best only an indirect benefit to Oregon. But a treatment of the problem liberally, from the standpoint of reasonableness and desirability, would be better. From such a standpoint the opinion of the majority is correct. In cases of irrigation and water-rights a view has been taken broader than that of the minority opinion. As long as Oregon, through its legislature, is willing to permit a foreign municipality to use its power of eminent domain, and the use of its land so acquired is a public one in the broad, liberal sense of the word, no citizen of Washington should be heard to object.

NUISANCE—AIDING BETTING ON RACES INDICTABLE.—D was indicted for the offense of maintaining a common and public nuisance. The evidence showed that he maintained a room in which he carried on a commission betting business. People would call him over the telephone and place bets with him on horse races; he received their bets and transmitted them to his father in New York, who would let him know if they were all right. They received money by check from D's father in New York or transmitted money to his New York office in case they lost the bet. There was no evidence of any disturbance or noise in or about the office of D, and his place of business was not known to the public generally. He was not indicted under the statute relating to betting on horse racing, but under the common law for a public nuisance. *Held,* he was guilty of maintaining a public nuisance by aiding betting in violation of law. *Enright* v. *Commonwealth* (Ky., 1920), 225 S. W. 240.

The decision is undoubtedly correct and follows the general rule. At common law any form of gambling was regarded as a nuisance because of its tendency to corrupt morals, disturb the community, and ruin fortunes, and it has been held that a pool room maintained to facilitate betting on horse races is a common law nuisance. *State* v. *Vaughn,* 81 Ark. 117; *State* v. *Ayers,* 49 Ore. 61. The decision in the principal case is based upon earlier Kentucky decisions. In *Ehrlick* v. *Commonwealth,* 125 Ky. 742, which was a prosecution for maintaining a common nuisance (a pool room), the court said: "A nuisance *per se* is any act or commission or use of property or thing which is of itself hurtful to the health, tranquility, or morals, or outrages the